

### **REMARKS**

This is in response to the Final Office Action mailed October 4, 2006. Claims 10-16, and 25 have been withdrawn. Claim 17 has been amended. Claims 17-24 and 26 remain pending. Support for the amendment to claim 17 can be found throughout the specification including on page 5 of the application as filed in Example 1 discussing the production of the active ingredient solution. It is believed that no new matter is presented with this amendment.

### **Rejections Under 35 U.S.C. §103(a)**

*Biering et al. (WO98/25468/U.S. Pat. No. 6,540,960) in view of Lang et al. (U.S. Pat. No. 5,858,945) and Biering et al. (WO01/47565/U.S. Pat. No. 6,908,891) in view of Lang et al. (U.S. Pat. No. 5,858,945)*

The Office Action has rejected claims 17-24 and 26 under 35 U.S.C. § 103(a) as being unpatentable over Biering et al. (US 6,540,960) in view of Lang et al. and Biering et al. (US 6,908,565) in view of Lang et al. Applicants respectfully traverse these rejections.

Applicants have amended claim 17 to call out a method of forming a disinfectant use solution for disinfecting medical instruments. Applicants believe that this clarifies that claim 17 is not a product by process claim and that the invention is directed to improved peracid-generating powders. Improved peracid-generating powders are needed for example to make sure that the powder dissolves completely in order to provide the desired disinfectant concentration faster and minimize the amount of undissolved powder that can leave a residue on a surface. See page 2 of the application as filed. The Office Action uses Lang et al. to teach the specific EO/PO surfactant in claim 17 along with the peroxide, and acylating agent. Applicants respectfully disagree that Lang et al. teaches the specific nonionic surfactant of claim 17. The Office Action of May 25, 2006 points to column 8 line 15 to column 9 line 20 to teach the specific nonionic

surfactant. While this text teaches EO/PO surfactants with 6 to 24 carbon atoms and 2 to 50 EO/PO units, it does not teach the preferred distribution of R groups as called out in claim 17. The specific surfactant of claim 17 is important for the improved dissolution rate and disinfectant properties as shown in Examples 1 and 2 of the present application. The generic EO/PO discussion in Lang et al. does not render the preferred distribution of the surfactant in claim 17 obvious because it does not teach or suggest the preferred distribution of claim 17 or give a reasonable likelihood of success that the surfactant of claim 17 would provide improved dissolution or disinfectant properties. The shortcomings of Lang et al. are not remedied by either Biering reference. Accordingly, it is respectfully requested that these rejections be withdrawn.

#### **Obviousness-Type Double Patenting Rejection**

The Office Action has rejected multiple claims under the judicially created doctrine of obviousness-type double patenting. Applicants believe that this rejection is moot in light of the above amendments and remarks. Accordingly, it is respectfully requested that this rejection be withdrawn.

#### **Summary**

It is respectfully submitted that each of the pending claims is in condition for allowance, and notification to that effect is kindly requested. The Examiner is invited to contact the Applicants' primary attorney-of-record, Anneliese S. Mayer, at (651) 795-5661, if it is believed that prosecution of this application may be assisted thereby.



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Dated: December 8, 2006

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